

**1. How many claims are there per region compared to the proportion of building and construction work that occurs in that region?**

**Answer**

Table 1 below provides a ratio of building permits to adjudication applications for 2021-22 to help provide some insight to this question.

However, Table 1 needs to be interpreted with a number of caveats:

- The Security of Payment scheme is open to subcontractors and trades that is beyond the building and construction work that the Victorian Building Authority (VBA) regulate and have oversight of through building permits. For example, building permits within the remit of the VBA captures work undertaken by key tradespeople and subcontractors covered by Security of Payment system including builders, building surveyors, building inspectors, architects, engineers, electricians etc. However, several trades and subcontractors do undertake work outside the regulatory powers of the VBA and therefore the VBA do not oversee or monitor this work. One example is electricians: in Victoria electricians are regulated by Energy Safe Victoria and do not require a building permit to undertake their work.
- There is also a difference in the regional classification used by the VBA in collecting building permit data compared with collecting statistics for the SOP adjudication process. Given this, while the regional classification are not a direct match, Table 1 can be broadly used for illustrative purposes.

So using building permit data from the VBA is not a complete picture to help identify the totality of the construction work nor applications within a geographic region.

**Table 1: Ratio of Building Permits to Security of Payment adjudication applications by region for 2021-2022**

Regions	No. of Building Permits	No. of Applications	Ratio (permits: applications)
<b>Metropolitan</b>			
Inner Melbourne (Inner, Inner East and Inner South)	28,676	121	237:1
Outer Melbourne (Melbourne North East, Melbourne North West, Melbourne Outer East, Melbourne South East, Melbourne West, Hume, Mornington Peninsula)	49,249	144	342:1
<b>Total Metropolitan</b>	<b>77,925</b>	<b>265</b>	<b>294:1</b>
<b>Rural</b>			
North East (Shepparton)	6,435	4	1609:1
Gippsland (Latrobe- Gippsland)	8,495	23	369:1
North Central (Bendigo)	8,274	0	N/A
North West (Ballarat, North West)	6,880	21	328:1
South West (Geelong, Warrnambool and South West)	11,961	10	1196:1
<b>Total Rural</b>	<b>42,045</b>	<b>58</b>	<b>725:1</b>

Source: VBA data for building permits and VBA's Adjudication Activity Statistics report for 2021-22.

**2. Request that Department send case studies from adjudicated cases, particularly for larger cases (e.g. over \$10 million).**

**Answer**

Table 2 below seeks to provide a snap shot of high value adjudicated cases from 2018-19 to 2021-2022.

In terms of a summary of key points from table 2:

- Over the past four financial years there have been eight claims made under the SOP Framework above \$10.0 million.
- For the eight claims made over this period:

- Five were made by head contractors, two by major subcontractors and one by a manufacturer.
- In terms of the respondent, it was the developer five times, the head contractor two times and a major subcontractor once.
- All adjudications were supported by solicitors on both sides (e.g. claimants and respondents were represented by solicitors) in all but one case (for the one claim in 2018-19 the claimant was represented by solicitors but not the respondent).
- All of the eight claims were settled in favour of the claimant, noting that for four of these the final adjudicated amount was less than half what was claimed.

**Table 2: Summary of Security of Payment Claims greater than \$10 million 2018-19 to 2021-2022.**

Year	Claimant	Respondent	Description of project and contract works	Claim Reason	Claimed amount (\$ million - ex GST)	Adjudicated amount (\$ million - ex GST)
2021-2022	Head contractor	Developer	Design and construct contract	Scheduled to pay less than claimed	34.4	11.0
2020-2021	Head contractor	Developer	Supply and installation of generators	Scheduled to pay less than claimed	38.4	38.4
2020-2021	Major subcontractor	Head contractor	Construction works	Scheduled to pay less than claimed	14.8	3.0
2019-2020	Major subcontractor	Head contractor	Civil and electrical works at a infrastructure site	Scheduled to pay less than claimed	70.6	7.5
2019-2020	Head contractor	Developer	Supply and installation of generators at infrastructure works	Scheduled to pay less than claimed	38.5	38.5
2019-2020	Manufacturer	Major subcontractor	Supply and manufacture contract	Failed to provide a payment schedule	27.2	27.2
2019-2020	Head contractor	Developer	Civil works	Scheduled to pay less than claimed	27.0	13.4
2018-2019	Head contractor	Developer	Design and construct contract	Scheduled to pay less than claimed	24.6	23.4

Source: VBA Building and Construction Industry Security of Payment Adjudication Activity Data

3. **Where cross-border work is done (e.g. work done in Wodonga VIC but builder is from Albury NSW) which state's legislation applies with regard to the Security of Payment scheme?**

**Answer**

The Victorian SOP Act only applies to construction work carried out in Victoria and related goods and services supplied in respect of construction work carried out in Victoria – see section 7(4) of the SOP Act copied below.

*This Act does not apply to a construction contract to the extent to which it deals with—*

- (a) *construction work carried out outside Victoria; and*  
 (b) *related goods and services supplied in respect of construction work carried out outside Victoria.*

The Committee may wish to reach out to Victoria's Cross Border Commissioner to see whether this is an issue ([link here](#)).